

Mark M. Elliott
Michael J. Reilly
Joshua Dorchak
BINGHAM MCCUTCHEN LLP
399 Park Avenue
New York, New York 10022
(212) 705-7000

Attorneys for The Bank of New York,
as Indenture Trustee

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:	:	Appeal from:
	:	Chapter 11 Case No. 05-17923 (ASH)
DELTA AIR LINES, INC., et al.,	:	
	:	
Debtors.	:	
	:	
-----	X	
	:	
BELL ATLANTIC TRICON LEASING CORPORATION, et al.,	:	Case No. 08-CV-2449 (RMB) (ECF Case)
	:	
Appellants,	:	
	:	
v.	:	
	:	
DELTA AIR LINES, INC., et al.,	:	
	:	
Appellees.	:	
-----	X	

**RESPONSE OF SLV CLAIMANT THE BANK OF NEW YORK,
AS INDENTURE TRUSTEE, TO APPELLANTS' OPENING BRIEF**

The Bank of New York, not in its individual capacity, but solely as Indenture Trustee (in such capacity, "BNY"), through its undersigned counsel, respectfully submits this response to the Appellants' Opening Brief on Appeal (the "Appellants' Brief") filed by Appellants Bell Atlantic Tricon Leasing Corporation, et al. (collectively, the "Appellants") in support of their

appeal (the “Appeal”) from the Bankruptcy Court’s Order with Respect to Substitute TIA/SLV Objection 3 (“Objection 3”), dated February 7, 2008 (the “Order”) [D-35].¹

RESPONSE

BNY holds claims (the “SLV Claims”) for stipulated loss value (“SLV”) under the leases for six of the aircraft at issue in the Appeal (N121DE, N917DL, N919DL, N920DL, N921DL, and N922DL), as set forth in detail in the record before the Bankruptcy Court. *See* D-24 at 5-7; D-27, Ex. E-G. In the Order, for the reasons given in the Decision on TIA/SLV Substitute Objection 3 and Objection 5I (the “Decision”), the Bankruptcy Court overruled Delta Air Lines, Inc.’s (“Delta’s”) limited objection to the SLV Claims. D-34 at 16-17; D-35.

Appellants did not appeal the Order to the extent it overrules Delta’s limited objection to the SLV Claims, and Appellants do not argue that the SLV Claims can or should be reduced as a result of Appellants’ alleged claims based on tax indemnity agreements (the “TIA Claims”). Delta did not cross-appeal from the Order on this (or any) point. Accordingly, the Order should stand with respect to the SLV Claims, and no specific response from BNY is required in this Appeal as of the date hereof.

In its Brief on Appeal of SLV Claimant The Bank of New York, as Indenture Trustee, in Response to Appellant’s Opening Brief (“BNY’s Objection 5I Appeal Brief”) in the appeal of TIA/SLV Objection 5I (Case No. 08-2411 (RMB)), also pending before this Court, BNY (i) set forth certain generally applicable facts pertinent to the rights of BNY as an indenture trustee and SLV claimant, and (ii) addressed certain legal issues relevant to the Decision, which decided both TIA/SLV Objection 3 and TIA/SLV Objection 5I. *See* BNY’s Objection 5I Appeal Brief at

¹ “D-___” refers to items in Appellants’ Designation of Record on Appeal.

2-8 (facts), 8-14 (legal issues). In the interest of efficiency, BNY respectfully refers the Court to BNY's Objection 5I Appeal Brief, rather than repeat those matters herein.

RESERVATION OF RIGHTS

BNY respectfully reserves its right to respond further in the event any party to the Appeal seeks to disturb the Bankruptcy Court's rulings with respect to the SLV Claims.

CONCLUSION

For the foregoing reasons, BNY respectfully requests that the Order be affirmed in all respects.

Dated: New York, New York
April 14, 2008

BINGHAM MCCUTCHEN LLP

By: /s/ Mark M. Elliott
Mark M. Elliott
Michael J. Reilly
Joshua Dorchak
399 Park Avenue
New York, New York 10022
(212) 705-7000
mark.elliott@bingham.com
michael.reilly@bingham.com
joshua.dorchak@bingham.com

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BELL ATLANTIC TRICON LEASING CORPORATION, et al.,	:	Case No. 08-CV-2449 (RMB) (ECF Case)
	:	
Appellants,	:	
	:	
v.	:	
	:	
DELTA AIR LINES, INC., et al.,	:	
	:	
Appellees.	:	

----- **x**

STATEMENT AS TO LATE FILING

Bingham McCutchen LLP, represents SLV Claimant, The Bank of New York in the above captioned appeal from the United States Bankruptcy Court for the Southern District of New York.

This Statement is submitted to explain the late filing of The Bank of New York's Response to Appellant's Opening Brief ("the Response"). Pursuant to Bankruptcy Rule 8009(a)(3) the Response to Appellant's Brief was due April 14, 2008. Our office attempted to electronically file the attached Response on April 14, 2008 from 5:00 p.m. through 7:00 p.m. During this period of time the Court's web site was experiencing a technical failure and unable to

accept the electronic filing of documents. The Response was filed the following morning on April 15, 2008.

BINGHAM McCUTCHEN LLP

A handwritten signature in black ink, appearing to read "David Marcus", is written over a horizontal line. The signature is stylized with loops and a long horizontal stroke extending to the right.

David Marcus
399 Park Avenue
New York, New York 10022
212-705-7000